

**REMARKS**

Claim 30 was revised to correct a typographical error. This revision is not related to patentability.

Claims 1, 2, 7-10, 12-15, 29-31, 34-37 and 39-41 were rejected under 35 U.S.C. §103(a) as being unpatentable over Oliva et al., U.S. Patent No. 6,654,802 ("Oliva") in view of Chao et al., U.S. Patent No. 6,549,513 ("Chao"). Claims 3, 4, 32 and 33 were rejected under 35 U.S.C. §103(a) as being unpatentable over Oliva in view of Chao and further in view of Au, U.S. Patent No. 6,473,397 ("Au"). Claims 11 and 38 were rejected under 35 U.S.C. §103(a) as being unpatentable over Oliva in view of Chao and further in view of Tounai et al., U.S. Patent No. 5,870,382 ("Tounai").

For at least the following reasons, Applicant disagrees and traverses the rejections.

**The Rejection of Claims 1, 2, 7-10, 12-15, 29-31, 34-37 and 39-41**

The claims identified in the above heading were rejected under 35 U.S.C. §103(a) as being unpatentable over Oliva in view of Chao. Applicant disagrees for at least the following reasons.

The present invention is directed at a first type of network element which transmits a "request for port identification" to one of a plurality of a second type of NEs, receives similar requests for port identification from the second type of NEs and transmits a "port detection signal" in response to one of the

port identification signals it receives. The transmission and reception of the requests and detection signals are transferred between the two types of NEs via an out of band channel.

In contrast, as admitted by the Office Action, Oliva fails to disclose the use of two different types of network elements. Instead, the network elements disclosed in Oliva are the same type (e.g., they are circuit switched network elements). In addition, again as admitted in the Office Action, Oliva does not disclose or suggest the transmission of port identification requests or responsive port detection signals, as in the claims of the present invention.

To alleviate these deficiencies, the Office Action relies on a combination of Oliva with Chao. However, Chao does not disclose or suggest the transmission of port identification requests or responsive port detection signals, as in the present invention. Instead, Chao discloses the transmission of a "confirmation response message" that is used to indicate that traffic has been switched from a restoration path to an original path after the original path has been fixed or restored. Such a message has nothing at all to do with the identification of a port through the use of port identification requests and responsive port detection signals, as in the claims of the present invention.

It is respectfully submitted that the claims of the present invention are not anticipated by either Oliva or Chao because neither discloses each and every element of the claimed invention, namely, the use of a first and second

type of network element and the use of port identification requests and responsive port detection signals, as in the present invention.

Likewise, it is respectfully submitted that the claims of the present invention would not have been obvious to one of ordinary skill in the art upon reading the disclosure of Oliva, taken separately or in combination with the disclosure in Chao, because neither discloses or suggests the use of a first and second type of network element and the use of port identification requests or responsive port detection signals, as in the claims of the present invention. Applicant respectfully submits that one of ordinary skill in the art would not equate the confirmation response messages in Chao, which are used to switch traffic from a restoration path to an original path, to the port identification requests or responsive port detection signals of the claims of the present invention, nor do such confirmation response messages suggest the use of port identification requests and responsive port detection signals, as in the claims of the present invention.

Accordingly, Applicant respectfully requests withdrawal of the pending rejections and allowance of claims 1, 2, 7-10, 12-15, 29-31, 34-37 and 39-41.

#### **The Remaining §103 Rejections**

Claims 3, 4, 32 and 33 as well as claims 11 and 38 were rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of Oliva in view of Chao and further in view of Au or Oliva in view of Chao in further view of

Tounai. Because all of these claims depend on a claim which is patentable over the references cited for the reasons given above, these claims are also patentable over Oliva, taken separately or in combination with any of the remaining references.

**Additional Comments Regarding Claims 9, 29 and 36**

In addition to the above rationales, claims 9, 29 and 36 are not rendered obvious by Oliva, taken separately or in combination with any of the cited references, because neither Oliva nor any of the cited references discloses or suggests the use of a packet switching network element as in claims 9, 29 and 36 of the present invention.

Accordingly, Applicant respectfully requests withdrawal of the pending rejections and allowance of claims 1-4, 7-15, and 29-41.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John E. Curtin at the telephone number of the undersigned below.

In the event this Response does not place the present application in condition for allowance, applicant requests the Examiner to contact the undersigned at (703) 668-8000 to schedule a personal interview.

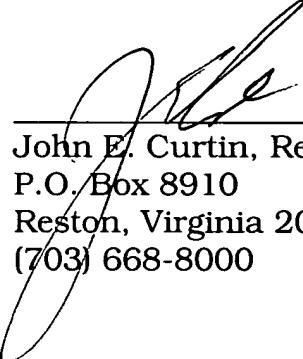
If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit

Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By

  
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